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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,348	08/01/2003	Victor Selig	ST8726US	3721
22203	7590	01/31/2006	EXAMINER	
KUSNER & JAFFE			CONLEY, SEAN EVERETT	
HIGHLAND PLACE SUITE 310				
6151 WILSON MILLS ROAD			ART UNIT	PAPER NUMBER
HIGHLAND HEIGHTS, OH 44143			1744	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,348	SELIG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean E. Conley	1744	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 December 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-18 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 01 August 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/20/04, 8/24/04, 10/27/03

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date.       .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other:       .

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of invention I, claims 1-18 in the reply filed on December 8, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 10-14 rejected under 35 U.S.C. 102(b) as being anticipated by Dahl (U.S. Patent No. 6,343,612 B1).

Regarding claims 1, 10 and 11, Dahl discloses a container (10) for holding items (pacifiers) to be microbially deactivated, comprised of: a generally cup-shaped tray (cylindrical body (12)) having a bottom wall and a continuous side wall extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid first seal element (screw threads (30)) formed along said free edge of said side wall; and a lid (14) attachable to said tray (cylindrical body (12)),

said lid (14) having a rigid second seal element (screw threads (28)) thereon, said second seal element being dimensioned to matingly engage said first seal element on said tray, wherein a convoluted path is defined between said first seal element and said second seal element (see figure 3; col. 1, line 66 to col. 2, line 25; col. 3, lines 4-13).

Regarding claims 2 and 12, Dahl discloses that the first seal element (screw threads (30)) are an integral part of the tray (cylindrical body (12)) and the second seal element (screw threads (28)) are an integral part of the lid (14) (see figure 3).

Regarding claims 13 and 14, Dahl discloses that the first and second seal elements (screw threads (28, 30)) include two spaced-apart interlocking rail-like projections (see figure 3).

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Spence (U.S. Patent No. 4,783,321 A).

Regarding claims 1, 10, 11 and 18, Spence discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (60) having a bottom wall and a continuous side wall extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid first seal element (82, 84, 86) formed along said free edge of said side wall; and a lid (24) attachable to said tray, said lid (24) having a rigid second seal element (23, 27, 29) thereon, said second seal element being dimensioned to matingly engage said first seal element on said tray, wherein a convoluted path is

defined between said first seal element and said second seal element (see figures 2, 3, 13; col. 4 line 40 to col. 5, line 2; col. 8, lines 4-60).

Regarding claims 2 and 12, Spence discloses that said first seal element (82, 84, 86) is an integral part of said tray, and said second seal element (23, 27, 29) is an integral part of said lid (see figures 2 and 3; col. 4 line 40 to col. 5, line 2; col. 8, lines 4-60).

Regarding claims 3 and 15, Spence discloses that said path defined between said first seal element and said second seal element is generally serpentine (defined as winding or turning, see Webster Dictionary) in shape (see figures 3 and 6).

Regarding claims 4 and 13, Spence discloses that said first and second seal elements include interlocking rail-like projections (see figure 13).

Regarding claims 5 and 14, Spence discloses that said first and said second seal elements are comprised of two spaced-apart rail-like projections (see figure 13).

Regarding claim 6, Spence discloses that one of said two spaced-apart rail-like projections (23) on said lid (24) is disposed between and spaced apart from said two rail-like projections (82, 84) on said tray (60) when said lid is attached to said tray (see figure 13).

Regarding claim 7, Spence discloses that said two rail-like projections (23, 27) on said tray (60) abut said lid (14) when said lid is attached to said tray (see figure 13).

Regarding claim 8, Spence discloses that said rail-like projections (23, 27) on said lid (14) do not engage (defined as to interlock, see Webster Dictionary) said tray (60) (see figure 13).

Regarding claim 9, Spence discloses that the serpentine path is defined between said rail-like projections on said lid and said rail-like projections on said tray (see figures 2, 3, 6).

Regarding claims 16 and 17, Spence discloses a U-shaped channel that is defined between said rail-like elements on said tray and said lid (see figure 13). Furthermore, the U-shaped channel comprises a fluid passage (channel (104)).

4. Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Spence (U.S. Patent No. 4,919,888).

Regarding claims 1, 10, and 11, Spence discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (base (12)) having a bottom wall (18) and a continuous side wall (composed of multiple walls (20, 21 and 22)) extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid first seal element (outwardly projecting rim (25)) formed along said free edge of said side wall; and a lid (14) attachable to said tray, said lid (14) having a rigid second seal element (gasket lip (42)) thereon, said second seal element being dimensioned to matingly engage said first seal element on said tray, wherein a convoluted path is defined between said first seal element and said second seal element (see figures 2, 3; col. 3, line 50 to col. 4, line 30).

Regarding claims 2 and 12, Spence discloses that said first seal element (outwardly projecting rim (25)) is an integral part of said tray (base (12)), and said

second seal element (gasket lip (42)) is an integral part of said lid (see figures 2 and 3; col. 3, line 50 to col. 4, line 30).

Regarding claim 3, Spence discloses that said path defined between said first seal element and said second seal element is generally serpentine (defined as winding or turning, see Webster Dictionary) in shape (see figure 1).

Regarding claims 4 and 13, Spence discloses that said first and second seal elements (outwardly projecting rim (25) and gasket lip (42), respectively) include interlocking rail-like projections (see figure 3; col. 4, lines 16-30).

5. Claims 1-5 and 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Owens et al. (U.S. Patent No. 5,641,065).

Regarding claims 1, 10 and 11, Owens et al. discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (bowl (12)) having a bottom wall and a continuous side wall (46) extending to one side from the periphery of said bottom wall, said side wall having a free edge (top of wall (46)), said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid first seal element (groove (34) with rim (36)) formed along said free edge of said side wall; and a lid (14) attachable to said tray (bowl (12)), said lid (14) having a rigid second seal element (seal (18) with resilient member (60)) thereon, said second seal element being dimensioned to matingly engage said first seal element on said tray, wherein a convoluted path is

defined between said first seal element and said second seal element (see figures 2-4; col. 2, lines 3-65; col. 3, lines 7-32).

Regarding claims 2 and 12, Owens et al. discloses that said first seal element (groove (34) with rim (36)) is an integral part of said tray (bowl (12)), and said second seal element (seal (18) with resilient member (60)) is an integral part of said lid (14) (see figures 3 and 4; col. 2, lines 20-57).

Regarding claims 3 and 15, Owens et al. discloses that said path defined between said first seal element and said second seal element is generally serpentine (defined as winding or turning, see Webster Dictionary) in shape (see figure 2).

Regarding claims 4 and 13, Owens et al. discloses that said first and second seal elements include interlocking rail-like projections (see figures 3 and 4; col. 3, lines 33-50).

Regarding claims 5 and 14, Owens et al. discloses that said first and said second seal elements are comprised of two spaced-apart rail-like projections. Specifically, the first seal element (groove (34) with rim (36)) has two rail-like projections formed as a result of groove (34). The second seal element (seal (18) with resilient member (60)) has two rail-like projections in that each element forms each of the rail-like projections (see figures 3 and 4).

Regarding claim 7, Owens et al. discloses that the two rail-like projections (formed as a result of groove (34)) on said tray (bowl (12)) abut said lid (14) when said lid is attached to said tray (see figure 4, specifically where each rail abuts the lid (14)).

Regarding claim 8, Owens et al. discloses that said rail-like projections (seal (18) with resilient member (60)) on said lid (14) do not engage (defined as to interlock, see Webster Dictionary) said tray (bowl (12)). The rail-like projections on the lid (seal (18) with resilient member (60)) engage the rail like projections of rim (36) and not the actual bowl (12) (see figure 4).

Regarding claim 9, Owens et al. discloses that the serpentine path is defined between said rail-like projections on said lid and said rail-like projections on said tray (see figure 2).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEC *A. E.C.*

January 24, 2006



KRISANNE JASTRZAB  
PRIMARY EXAMINER